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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/763,682	04/27/2001	Rolf Bjerkvig	1702.401900	8676

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EXAMINER	
ANGELL, JON E	
ART UNIT	PAPER NUMBER
1633	7

DATE MAILED: 12/04/2001

Please find below and/or attached an Office communication concerning this application or proceeding.

Offic Action Summary	Application No. 09/763,682	Applicant(s) BJERKVIG, ROLF	
	Examiner Eric Angell	Art Unit 1633	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____ .

2a)☐ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 12-28 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) _____ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☒ Claim(s) 12-28 are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

Claims 12-28 are pending in the application.

An amendment was requested to delete claims 1-19 and to add claims 20-36. The application only contained claims 1-11, therefore claims 1-11 were canceled and the new claims were added as claims 12-28.

Election/Restrictions

1. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in response to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 12, 13, 17 and 22, drawn to a method of producing an encapsulated cell, a composition comprising an encapsulated cell that expresses a molecule capable of interacting with tumor/host communication pathways, and a method of treatment using the encapsulated cell.

Group II, claim(s) 12 and 23, drawn to a drawn to a method of producing an encapsulated cell, a composition comprising an encapsulated cell that expresses a monoclonal antibody, and a method of treatment using the encapsulated cell.

Note: Claim 12 is drawn to an encapsulated cell that expresses a molecule capable of interacting with tumor/host communication pathways, **OR** a monoclonal antibody. Therefore, claim 12 is included in both Groups I and II and will be examined only as it pertains to the subject matter of each Group.

The following claim(s) are generic to Groups I and II: 14-16, 18-21 and 24-28.

2. The inventions listed as Groups I and II do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: Group I is drawn to an drawn to an encapsulated cell that expresses a molecule capable of interacting with tumor/host communication pathways, and Group II is drawn to an encapsulated cell that expresses a monoclonal antibody. These two groups they lack the same or corresponding special technical features because the claims a drawn to materially different compositions. For instance the Group I includes many molecules that are not monoclonal antibodies including polysaccharides (see claim 22) and non-antibody proteins and polypeptides.

3. This application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The species are as follows:

Group I includes the species (i) a molecule that is capable of affecting tumor neovascularization, (ii) a molecule that is capable of interfering with the relationship between cells of the CNS tumor and their extracellular matrix, and (iii) a molecule that is capable of affecting the immune system.

Group II includes a monoclonal antibody specific for the species of: platelet derived growth factor receptors AA and BB, acidic and basic fibroblast growth factor receptors, transforming growth factor receptor alpha, transforming growth factor receptor beta, vascular endothelial growth factor receptors, tyrosine kinase receptors with the immunoglobulin-like and

EGFD-like domains, hepatocyte growth factor, CD-44, CDR/cyclin complexes, glycolipids on the cell surface, glycoproteins, and proteins derived from the expression of oncogenes.

Applicant is required, in reply to this action, to elect a single species to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

4. The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons: The species of Group I include materially different compositions. The species of Group II include different monoclonal antibodies with different specificities and thus have different functions.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Eric Angell whose telephone number is (703) 605-1165. The examiner can normally be reached on M-F (8:00-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Deborah J. Clark can be reached on (703) 305-4051. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-4242 for regular communications and (703) 308-4242 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.

J. Eric Angell
November 28, 2001

DEBORAH J. R. CLARK
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600